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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,799	01/31/2002	Valene Skerpac		3395

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EXAMINER

DAVIS, ZACHARY A

ART UNIT

PAPER NUMBER

2137

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/062,799

Applicant(s)

SKERPAC, VALENE

Examiner

Zachary A. Davis

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "Human Input x"; "Phrase x"; and "Biometric Input x" (see page 11, lines 3-5).
3. The drawings are objected to because in Figure 1, it appears that "Phase 1" under "Function Set Outcome 1" is intended to read "Phrase 1". Further, it is recommended that the drawings and specification be amended to include reference characters as per 37 CFR 1.84(p) to assist in comprehension of the drawings.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The disclosure is objected to because of the following informalities: The specification appears to contain minor typographical and other errors. For example, on page 11, lines 5-6, in the sentence "The biometric processing process result and human recognition matching process results are therefore inexplicably tied", it appears that "inexplicably" is intended to read "inextricably". Also, the sentence on page 14, lines 11-13, beginning "For example, a Personal Computer", appears to be a fragment.

Appropriate correction is required. The above is not intended as an exhaustive list of errors. Applicant's cooperation is requested in correcting any other errors of which Applicant may become aware in the specification.

6. The use of the trademarks Microsoft® and AOL® has been noted in this application. They should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

7. Claim 1 is objected to because of the following informalities:

In lines 2-3 of the claim, it appears that "generating a responsive signal thereto" should read "generating a signal responsive thereto". Further, in line 5 of the claim, the placement of the word "therein" at the end of the limitation is generally awkward, as it appears that "therein" could modify something other than "data base" as intended.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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9. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "the users" in line 6 of the claim and "said first data base for delivering a randomly generated challenge phrase" in line 8 of the claim. There is insufficient antecedent basis for these limitations in the claim.

Claim 2 recites steps of "having a user initially input information" and "having said user speak". The use of the term "having" renders the claim indefinite, because it is not clear as to who or what has the user perform the claimed actions.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Talmor et al, US Patent 6510415.

In reference to Claim 1, Talmor discloses a biometric security system including a station for receiving input information from a user representative of the user and

generating a signal responsive thereto; a database having a plurality of words and language rules for generating one-time challenge phrases; a database having biometric models of users; and a controller that receives and validates the signal as representative of the user, where the controller communicates with the database that generates one-time challenge phrases for the user to speak, and communicates with the station to validate a spoken response to the challenge as representative of the user (see Figure 1 and column 6, line 50-column 7, line 3 and column 7, line 25-column 8, line 38; see also column 8, line 43-column 9, line 7, noting especially at column 8, line 63-column 9, line 2, where the user is prompted to say random phrases).

Claim 2 is directed to a method corresponding substantially to the system of Claim 1, and is rejected by a similar rationale.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Kanevsky et al, US Patent 5897616, discloses a speaker identification and verification system that includes dynamic voice print generation and includes generating random questions for a user to answer in order to be identified.
- b. Maes et al, US Patent 6411933, discloses methods that include speaker recognition and speech recognition.

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- c. Assaleh et al, US Patent 6556969, discloses a speaker verification system, noting that systems can present a random word or phrase to a user.
- d. Bellegarda et al, US Patent 6697779, discloses a user authentication method that includes speaker-specific recognition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BAO  
zad

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER